



POLICE DEPARTMENT

April 3, 2023

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2022-26588
Police Officer Edward Donzelli	:	
Tax Registry No. 960475	:	
Health & Wellness Section	:	

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Maria Paolillo, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Edward Donzelli, on or about May 18, 2022, while on duty and assigned to the 121 Precinct, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department in that said Police Officer was discourteous and unprofessional to an individual known to the Department when said individual walked into the precinct and attempted to file a Complaint Report. (*As amended*)

A.G 304-06, Page 1, Para 1

PERFORMANCE ON DUTY -
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 8, 2023. Respondent, through his counsel, entered a plea of Guilty to the charged misconduct and testified in mitigation of the penalty. The parties consented to the admission into evidence of a recording of a phone call placed by the complainant to the Internal Affairs Bureau the day after the incident. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I recommend that Respondent forfeit five (5) vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

On May 18, 2022, the complainant walked into the 121 Precinct with the intention of filing a harassment complaint against a neighbor. She spoke with Respondent, the switchboard operator, who was responsible for dealing with walk-ins. Respondent has admitted that he was discourteous and unprofessional toward the complainant during their interaction.

The next day, May 19, the complainant called IAB to make a complaint against Respondent. A recording of that call, and the accompanying transcript, were admitted into

evidence. (Dept. Exs. 1 & 1A) In that call, the complainant stated that she has been having an on-going dispute with her neighbor, and went to the police station to file a complaint. She stated that from the start, Respondent seemed reluctant to prepare the complaint; he told her that not only would filing a complaint not help her, it might lead the neighbor to retaliate with a claim against her, possibly leading to the complainant's arrest. The complainant showed Respondent a video of a recent incident, where the neighbor was yelling at the complainant's husband about stealing her electricity; Respondent suggested that she put the video away since her husband raised his voice in the footage and appeared to be the aggressor. Respondent said to the complainant that he would go ahead and file the report because he liked her. When he saw her home address, Respondent told her that she lives in a bad neighborhood. The complainant disputed that characterization, and told Respondent that he was being rude and unprofessional. She then left the precinct without filing a report, and called IAB the following day. (Dept. Ex. 1A at 3-4)

Respondent testified that he believed that the situation presented to him by the complainant was a civil matter involving an electricity dispute between neighbors. When the complainant told him her address, he made the comment about it being a bad neighborhood out of sympathy, since he, himself, had grown up there and "knew that it could be hard" dealing with things like loud music at night and frequent disputes. Respondent acknowledged that in hindsight, it was wrong for him to make that remark, and he "does find himself guilty for what he did." Similarly, though he could not specifically recall saying to the complainant that he would file a complaint because he liked her, he did not dispute making that statement, and admitted such a statement was inappropriate as well. (Tr. 14-15, 17-19, 23-26)

At the time of this incident, Respondent was on restricted duty following a hip fracture he sustained while on-duty in July 2021. He had surgery in December, and was still in a lot of pain. He also felt frustrated that he could not “go out on the street, perform [his] day-to-day duties to protect the City.” Respondent testified that the stress he was experiencing from multi-tasking in the stationhouse may have impacted his interaction with the complainant, and that he did not mean to state things to her in the manner that he did. He acknowledged, however, that even though he was feeling stress and frustration, that did not make him innocent of the misconduct he engaged in that day. (Tr. 16, 19-20)

PENALTY

In order to determine an appropriate penalty, this tribunal, guided by the Department’s Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent’s employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on January 6, 2016, has pled guilty to speaking to the complainant in a discourteous and unprofessional manner. Under the Disciplinary Guidelines, the presumptive penalty for discourtesy to a member of the public is five vacation days; the matrix also provides for a mitigated penalty as low as one day, and an aggravated penalty up to ten days. The Department Advocate asks that Respondent forfeit 20 vacation days, noting that Respondent’s tone and demeanor in this matter, and the effect his actions had on the complainant, justify an upward departure from the aggravated penalty.

Counsel for Respondent argues that that recommendation is excessive, that the discourtesy here was relatively minor, and that Respondent should be penalized consistent with the penalty range for the offense of discourtesy.

On the one hand, the nature of the discourteous comments here were relatively minor. Respondent, who has no formal disciplinary record, did not directly insult the complainant, use profanity, or refuse to file a report. While it was wrong for Respondent to make comments about the complainant's neighborhood, he credibly testified that he, himself, grew up in that neighborhood, and did not mean his remarks to be insulting. Similarly, while it was inappropriate for Respondent to tell her he would file a complaint because he liked her, which she interpreted as an attempt on his part to avoid doing his job, Respondent explained that any hesitation on his part stemmed from his genuine belief that the dispute over electricity was more of a civil matter. After listening carefully to Respondent's trial testimony, I conclude that he did not harbor any ill-intent toward the complainant; rather, he was careless with his words, which he readily acknowledged on the witness stand. As he explained, his insensitivity may have stemmed, in part, from the stress and frustration he was experiencing due to being on restricted duty following a hip injury.

However, it also is relevant to take into account the impact Respondent's words had on the complainant. She came to the precinct seeking help from the Department, and instead was spoken to in a way that discouraged her from following through on her original intention to file a harassment complaint. The complainant, who was understandably upset, left the precinct, and called IAB to report Respondent the following day. Respondent was, indeed, unprofessional in his dealings with the complainant, and there must be appropriate accountability.

On balance, the presumptive penalty for discourtesy will adequately address the misconduct here. Taking into account the totality of the facts and issues in this matter, I recommend that Respondent forfeit five (5) vacation days.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Jeff S. Adler', with a long horizontal flourish extending to the right.

Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

JUL 26 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER EDWARD DONZELLI
TAX REGISTRY NO. 960475
DISCIPLINARY CASE NO. 2022-26588

Respondent was appointed to the Department on January 6, 2016. On his three most recent annual performance evaluations, he was rated "Exceeds Expectations" for 2022, and twice received ratings of "Meets Standards for 2019 and 2020.

Respondent has no formal disciplinary history. He was placed on Level 1 Discipline monitoring from October 15, 2019 through January 28, 2021.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials